

Katten

575 Madison Avenue
New York, NY 10022-2585
+1.212.940.8800 tel
katten.com

SCOTT A. RESNIK
scott.resnik@katten.com
+1.212.940.6552 direct
+1.212.940.8776 fax

September 1, 2020

VIA ECF

The Honorable Gary R. Brown
United States District Judge
Eastern District of New York
100 Federal Plaza
Central Islip, New York 11722

Re: *United States v. Michael Cohn*, 19 Cr. 97 (GRB)

Dear Judge Brown:

We write to briefly respond to the government's September 1, 2020 letter asking Your Honor to stay the Court's decision to promptly hold a bench trial in this case. We oppose the government's request that the trial be adjourned until the end of October to "allow the parties a more thorough opportunity to assess the possibility of proceeding to trial by jury" Dkt. No. 101, Gov't Ltr. at 1. The government speaks only for itself – Mr. Cohn does not need additional time to assess this "possibility." The Court addressed all of the issues raised in the government's letter in its August 26, 2020 Order granting a bench trial. Mr. Cohn is prepared to proceed in accordance with the Court's Order and on a trial date set by the Court. The government is essentially making a motion for reconsideration without availing itself of, nor even attempting to satisfy, the proper standard. *See United States v. Gross*, No. 98 CR 0159 SJ, 2002 WL 32096592, at *3 (E.D.N.Y. Dec. 5, 2002) (holding that a motion for reconsideration "may not [be] use[d] . . . as an opportunity to reargue the same points raised previously" and that it should only be granted if the moving party points to matters "that might reasonably be expected to alter the conclusion reached by the court.") Accordingly, the government's request to stay Mr. Cohn's trial should be denied.

The government's request is a strategic maneuver designed to obtain more time to prepare for trial. The government has had two years to prepare its case. To the extent the government has out-of-state witnesses, the Court made clear in its Order that it is well-equipped to have them testify by video if it is unsafe for them to appear in person. The government's lack of preparation should not control the timing of Mr. Cohn's trial.

Furthermore, delaying the trial until the end of October increases the risk that the coming flu season combined with a resurgence of the COVID-19 pandemic will curtail the District's ability to hold any trials.

Katten

September 1, 2020

Page 2

For the foregoing reasons, we respectfully request that the Court deny the government's motion and order the prompt production of *Jenks* and *Giglio* material, as well as the rest of the government's pre-trial production obligations, so that these materials can be reviewed without necessitating a delay in the trial date.

Respectfully Submitted,

/s/ Scott A. Resnik

Scott A. Resnik

Michael M. Rosensaft

Vikas Khanna

Katten Muchin Rosenman LLP

575 Madison Avenue

New York, NY 10022-2585

Phone: +1.212.940.8800

Fax: +1.212.940.8776